



EXHIBIT 8
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HB 161

BLACKFEET NATION

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EXECUTIVE COMMITTEE

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Peter "Rusty" Tatsey, Vice-Chairman
Terry "TJ" Show, Secretary
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BLACKFEET TRIBAL BUSINESS COUNCIL

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TESTIMONY OF THE BLACKFEET TRIBE
OF THE BLACKFEET INDIAN RESERVATION
IN SUPPORT OF HB 161 RATIFYING
THE BLACKFEET WATER RIGHTS COMPACT

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Mr. Chairman, and members of the Committee, I am honored to be here on behalf of the Blackfeet Tribal Business Council to support House Bill 161 ratifying the Blackfeet Water Right Compact.

My name is Roger Runningcrane, and I am a member of the Blackfeet Tribal Business Council. As a member of the Blackfeet Council, I was extensively involved in the negotiations leading to the Water Rights Compact. I am here with our legal counsel, Jeanne Whiteing, and our Resources Director, Don Wilson, who are available to assist me in responding to questions.

The Blackfeet Water Rights Compact is the culmination of many, many years of work by the Tribe on a matter of critical importance to the future of the Blackfeet people. The Compact secures the *Winters* reserved water rights of the Tribe, and establishes one of the critical elements necessary for the development of a self-sustaining economy on the Blackfeet Reservation and a permanent homeland for the Blackfeet People.

The Compact will not become effective until it is approved by the Legislature, by the United States Congress and by the Tribal membership. State legislative approval is the first step in obtaining the approvals necessary to finalize the Blackfeet Compact. We still have a ways to go, but we are very pleased to be taking the first step today in moving the Compact forward through our support of HB 161.

The Significance of Water to the Blackfeet People

Water is critical to the Blackfeet People. It is central to the culture and traditions of the Tribe, and to economy of the Tribe. It is an essential element of our way of life, and it is crucial to our continuing survival culturally, traditionally and economically. Therefore, the Compact that is before you today for approval has extraordinary significance and importance to the Blackfeet People.

The Blackfeet Reservation

The Blackfeet Reservation was established by Treaty with the United States on October 17, 1855 (11 Stat. 657). The present reservation is only a small part of the historical aboriginal territory of the Blackfeet Tribe which encompassed much of the present State of Montana, and a large area into Canada. The Tribe's reservation was gradually reduced to the present 1.5 million acre Reservation through various federal actions.

The Tribe has over 16,000 members, about half of whom live on the Reservation. Tribal unemployment consistently averages around 60-70%.

Ranching and associated irrigated agriculture is a mainstay of our Reservation economy. Other resources, including oil and gas, timber and grazing leases, also contribute to the economy. The Tribe continues in its efforts to identify and develop new economic opportunities. The water resources of the Reservation are an integral part of these efforts and are key element to the overall economic success of the Reservation.

Water Resources

The Blackfeet Reservation includes several significant water drainages. The St. Mary and Milk drainages arise in the northwest and flow through the Reservation and then into Canada. The Milk River re-enters the United States near Havre. Cut Bank Creek, Two Medicine River, and Badger and Birch Creeks all flow easterly through the Reservation and into the Marias River at the eastern boundary of the Reservation. Birch Creek is the southern boundary of the Reservation. The average annual water supply on the Reservation is nearly 1.5 million acre feet. The St. Mary and Milk Rivers are included in the 1909 Boundary Waters Treaty, and Birch Creek is subject to a federal court decree issued in the 1908 Conrad Investment case.

Existing water use on the Reservation includes irrigation under the BIA Blackfeet Irrigation Project, and other irrigation throughout the Reservation, livestock use, wildlife and recreational use, and domestic, municipal and industrial use. The Reservation also has many significant lakes, several of which have blue-ribbon fisheries, and extensive wetlands. Further water use on the Reservation has been hampered by inadequate storage available to the Tribe, and significant condition problems relating to the Blackfeet Irrigation Project. The Blackfeet Irrigation Project, like the St. Mary diversion facilities that the State seeks to have rehabilitated, are nearly a hundred years old and suffer from many of the same condition problem. The Tribe expects to be able to increase storage on the Reservation and rehabilitate and expand existing irrigation as part of an overall water rights settlement.

Water Rights Negotiations

The Tribe's water rights have been the subject of negotiations among the Tribe, the Montana Reserved Water Rights Compact Commission and a Federal Negotiation Team for well over a decade. In December 2007, the Blackfeet Tribal Business Council passed a resolution affirming that the Compact provided the basis to move forward to obtain the necessary approvals to finalize the Compact. Particularly in the last two years leading up to the Compact, several negotiation sessions were held on the Reservation. In addition, numerous Tribal public meetings were held both before and after the conclusion of negotiations. In the last two years alone, over 30 public meetings have been held concerning the Compact.

The Tribe and the State also entered into a separate agreement relating to Birch Creek that will mitigate any impacts to Birch Creek water users off the Reservation. Under the Birch Creek Agreement, the Tribe will defer new development of Birch Creek water for fifteen years, and then will provide water to Birch Creek water users from an enlarged Four Horns Reservoir, for a total agreement term of 25 years. The agreement is conditioned on congressional approval of the Compact and funding for Four Horns.

Terms of the Compact

Under the terms of the Compact, the Winters reserved water rights are secured to the Tribe basin by basin. The main elements of the Compact include:

1. Protection of the cultural and religious uses of water, and recognition of all existing uses by the Tribe and its members.
2. Minimum in stream flows on all stream.

3. Recognition of the Tribal Water Right in the following amounts:

- In the Milk, Cut Bank, Badger and Two Medicine, all of the natural flow and groundwater less the amounts necessary to fulfill state water rights;
- In St. Mary, 50,000 acre feet, plus additional amounts in Lee Creek and Willow Creek, and additional amounts remaining after satisfaction of state water rights;
- In Birch Creek, 100 cfs, plus 25 cfs for in stream flows during the irrigation season and 15 cfs during the non-irrigation season, plus additional amount at the end of the system; and
- An allocation of Tiber Dam water in amount approved by Congress.

The Compact also provides for tribal administration of tribal water rights and the state administration of state water rights is provided for under the compact. Disputes between tribal and state water rights will be brought to a Compact Board which is similar to the Compact Boards in other tribal settlements in the State. Water marketing authority is also established in the Compact.

State water right holders are protected by no call provisions on all streams. These provisions protect non-irrigation uses, and some irrigation uses. There are also phase-in provisions for new Tribal development on the Milk and Cut Bank Creek. There is also a separate Birch Creek Management Plan in Appendix A to the Compact that will provide for more specific management on that boundary stream.

State and Federal Contributions

In 2007, the State appropriated \$15 million for mitigation measures on Birch Creek. Of this amount, \$14.5 million of which will be paid to the Tribe under the Birch Creek Agreement when the Compact is approved by all parties and becomes final. An additional \$500,000 was made available to begin the necessary technical studies for the enlargement of Four Horns.

The State has also committed to contribute \$20 million to the Four Horns Project, \$4 million of which is appropriated in this legislation. While this is a significant contribution, the most recent Four Horns studies show that the incremental cost of providing water to Birch Creek is \$30 million, and we have requested the State to consider increasing its contribution to fully cover this cost.

As part of the federal legislation approving the Compact, the Tribe also expects a substantial federal contribution to the overall settlement. It is our hope that a bill will be introduced in Congress shortly. Included in our draft federal bill is a federal contribution of \$591 million.

CONCLUSION

The Blackfeet Water Rights Compact represents an historic milestone for the Blackfeet Tribe. In the 150 years since the Blackfeet Reservation was established in 1855, the Tribe has received little benefit from reservation water resources, while our federal trustee has allowed and significantly subsidized development off the reservation. This Compact, which permanently secures the water rights of the Tribe, together with the state and federal contributions to the

settlement, will finally provide the means for the Tribe fully utilize our water reservations to provide a permanent homeland for the Blackfeet People.

As I previously indicated, approval by the State Legislature is only the first step in achieving a final Compact. The Blackfeet Tribe fully supports HB 161 as the first step in moving forward toward a final Compact.

Our next step will be to obtain federal approval. And most importantly, we must then present the comprehensive settlement as reflected in the Compact, this state legislation and the federal legislation, to the members of the Blackfeet Tribe for their approval. We are confident, that the Compact, together with the state and federal contributions to the overall settlement, will meet the expectations of the Blackfeet People and provide the basis for their approval.